Harcharan Singh a/l Piara Singh v Public Prosecutor

FEDERAL COURT (PUTRAJAYA) — CRIMINAL APPLICATION NO 05–22 OF 2004 (B)

ALAUDDIN PCA, RICHARD MALANJUM CJ (SABAH AND SARAWAK), HASHIM YUSOF, ABDULL HAMID EMBONG FCJJ AND HASSAN LAH JCA

15 JUNE 2011

Civil Procedure — Language — National language — Whether written grounds of judgments of High Court, Court of Appeal and Federal Court were nullities for being in English language — Whether judges had discretion to write grounds of judgment either in English or Bahasa Malaysia — Whether non-compliance with s 8 of the National Language Act 1963 caused injustice or prejudice to applicant or abused process of court — Whether Federal Court had inherent jurisdiction to review own decision in fit and proper case

The applicant was charged, convicted and sentenced to death by the High Court for committing murder. On his appeal to the Court of Appeal, he was acquitted and discharged. The Federal Court, however, reversed the decision on appeal by the prosecution and the conviction and sentence imposed by the High Court were restored. The applicant then applied under r 137 of the Rules of the Federal Court 1990 ('the RFC') for the Federal Court to review its own decision and set aside the conviction and sentence on the sole ground that the judgments which were delivered by the High Court, Court of Appeal and the Federal Court pertaining to his case were all nullities for failure to comply with s 8 of the National Language Act 1963 ('the Act'). The applicant said the combined effect of art 152 of the Federal Constitution and s 8 of the Act required all court proceedings to be in the national language and as they were not so in his case, the three judgments of the respective courts were all null and void and of no legal effect.

Held, dismissing the application:

(1) Grounds of judgments do not fall within s 8 of the Act. Judges have the discretion to provide their grounds of judgment in either the national language or the English language. The choice of language adopted by the respective judge was not open for challenge so long as it was in the national language or the English language (see para 30).

(2) Although the word 'proceedings' in s 8 of the Act included judgments, 'judgment' in this sense ought to be taken as pronouncement of an order and did not include grounds of judgment. Even if it did, the grounds of

judgment in the English language would be saved by the proviso to s 8 as the courts had wide discretion as to the use of the English language in court (see para 28).

(3) The court had a wide discretion whether to conduct proceedings in the English language or in the national language, be it on the court's own motion or on application by the parties (see para 30).

(4) As no injustice or prejudice had been caused to the applicant by reason of the English written grounds of judgments and as there had been no abuse of process of the court, the present case did not warrant the court to invoke r 137 or exercise its inherent jurisdiction to rehear its own decision (see paras 31–32).

(5) Rule 137 of the RFC was not futile but had its function in view of its declaratory effect. The court had to be extremely cautious and invoke the rule or exercise its inherent power only in rare and exceptional cases. The list of instances when r 137 or the court's inherent power could be exercised was not exhaustive (see paras 18–20).

(6) A court of final instance must be equipped with residual jurisdiction to rehear and reopen its own earlier decision in a fit and proper case to prevent injustice or an abuse of process of the court. Accordingly, where the Court of Appeal was the apex court of any particular case in view of s 87 of the Courts of Judicature Act 1964, then it was also clothed with such inherent power. And if the High Court was similarly positioned, it too had the inherent power (see paras 16–17).

[Bahasa Malaysia summary

Pemohon dituduh, disabit dan dihukum mati oleh Mahkamah Tinggi kerana membunuh. Atas rayuannya kepada Mahkamah Rayuan, dia dibebaskan dan dilepaskan. Mahkamah Persekutuan, walau bagaimanapun mengakas keputusan tersebut atas rayuan daripada pendakwaan dan sabitan dan hukuman yang dikenakan oleh Mahkamah Tinggi dikembalikan. Pemohon kemudiannya memohon di bawah k 137 Kaedah-Kaedah Mahkamah Persekutuan 1995 ('KMP') untuk Mahkamah Persekutuan menyemak keputusannya sendiri dan mengenepikan sabitan dan hukuman atas satu-satunya alasan bahawa penghakiman-penghakiman yang diputuskan oleh Mahkamah Tinggi, Mahkamah Rayuan dan Mahkamah Persekutuan berkaitan kesnya adalah kesemuanya tidak sah kerana gagal untuk mematuhi s 8 Akta Bahasa Kebangsaan 1963 ('Akta'). Pemohon menyatakan kesan bergabung perkara 152 Perlembagaan Persekutuan dan s 8 Akta memerlukan kesemua prosiding mahkamah di dalam bahasa kebangsaan dan memandangkan ianya bukan dalam kesnya, ketiga-tiga penghakiman

A mahkamah-mahkamah tersebut adalah terbatal dan tidak sah dan tidak mempunyai kesan undang-undang.

Diputuskan, menolak permohonan:

B (1) Alasan penghakiman tidak terangkum dalam s 8 Akta. Hakim-hakim mempunyai budi bicara untuk memperuntukkan alasan-alasan penghakiman mereka sama ada dalam bahasa kebangsaan atau bahasa Inggeris. Pilihan bahasa yang digunakan oleh hakim tersebut tidak terbuka untuk dibantah asalkan ianya dalam bahasa kebangsaan atau bahasa Inggeris (lihat perenggan 30).

C (2) Walaupun perkataan 'proceedings' dalam s 8 Akta termasuk penghakiman-penghakiman, 'judgment' dalam maksud ini patut diambil kira sebagai pengumuman perintah dan tidak termasuk alasan-alasan penghakiman. Jika ia pun, alasan-alasan penghakiman D dalam bahasa Inggeris akan diselamatkan oleh peruntukan kepada s 8 kerana mahkamah-mahkamah mempunyai budi bicara luas terhadap penggunaan bahasa Inggeris di dalam mahkamah (lihat perenggan 28).

(3) Mahkamah mempunyai budi bicara yang luas sama ada untuk E menjalankan prosiding-prosiding di dalam bahasa Inggeris atau dalam bahasa kebangsaan, sama ada atas usul mahkamah itu sendiri atau atas permohonan kedua-dua pihak (lihat perenggan 30).

(4) Memandangkan ketidakadilan atau prejudis telah diakibatkan kepada pemohon dengan sebab alasan penghakiman dalam bahasa Inggeris dan F oelh kerana tidak terdapat penyalahgunaan proses mahkamah, kes ini tidak mewajarkan mahkamah untuk membangkitkan k 137 atau melaksanakan bidang kuasa sedia adanya untuk mendengar semula keputusannya sendiri (lihat perenggan 31–32).

G (5) Kaedah 137 KMP tidak sia-sia tetapi mempunyai fungsinya mengambilkira kesan perisytiharannya. Mahkamah mesti amat berhati-hati dan membangkitkan kaedah atau melaksanakan kuasa sedia adanya hanya dalam kes-kes yang jarang dan luar biasa. Senarai keadaan-keadaan apabila k 137 atau kuasa sedia ada mahkamah boleh H dilaksanakan tidak menyeluruh (lihat perenggan 18–20).

(6) Mahkamah akhir mesti dilengkapkan dengan saki-baki bidang kuasa untuk mendengar semula dan membuka semula keputusan terdahulunya dalam kes yang sesuai dan betul untuk menghalang ketidakadilan atau penyalahgunaan proses mahkamah. Dengan itu, jika Mahkamah Rayuan I adalah mahkamah tertinggi bagi mana-mana kes tertentu mengambilkira s 87 Akta Mahkamah Kehakiman 1964, oleh itu ia mesti dilengkapi dengan kuasa inherens sedemikian. Dan jika Mahkamah Tinggi berada dalam keadaan yang sama, ia juga mempunyai kuasa sedia ada tersebut (lihat perenggan 16–17).]

Notes

For a case on national language, see 2(1) *Mallal's Digest* (4th Ed, 2010 Reissue) para 5146.

Cases referred to

Adorna Properties Sdn Bhd v Kobchai Sosothikul [2006] 1 MLJ 417; [2005] 1 CLJ 565, FC (refd)

Allied Capital Sdn Bhd v Mohd Latiff bin Shah Mohd, & another application [2005] 3 MLJ 1, FC (refd)

Asean Security Paper Mills v Mitsui Sumitomo Insurance (Malaysia) Bhd [2008] 6 CLJ 1, FC (refd)

Badan Peguam Negara v Kerajaan Malaysia [2009] 2 MLJ 161; [2009] 1 CLJ 833, FC (refd)

Chu Tak Fai v PP [2007] 1 MLJ 201, FC (refd)

Dato' Seri Anwar Ibrahim v Tun Dr Mahathir bin Mohamad [2011] 1 MLJ 145; [2011] 1 CLJ 1, FC (folld)

Dato' Seri Anwar bin Ibrahim v PP [2010] 5 MLJ 145, FC (refd)

Lim Lek Yan @ Lim Teck Yam v Yayasan Melaka and another application [2010] 1 MLJ 173; [2009] 6 AMR 393, FC (refd)

Ong Thye Peng v Loo Choo Teng & Ors [2009] 4 MLJ 472, FC (refd)

PP v Abdullah bin Idris [2009] 5 MLJ 192, CA (refd)

PP v Denish Madhavan [2010] 5 CLJ 635, FC (refd)

Raja Petra Raja Kamarudin v Menteri Dalam Negeri [2010] 4 CLJ 25, FC (refd)

Ramanathan a/l Chelliah v PP [2009] 6 MLJ 215, CA (refd)

Sabah Forest Industries Sdn Bhd v UNP Plywood Sdn Bhd [2010] 4 MLJ 483; [2010] 3 CLJ 779, FC (refd)

Taylor and another v Lawrence and another [2002] 2 All ER 353, CA (refd)

Uddin (a child) (serious injury: standard of proof), Re [2005] 3 All ER 550, CA (refd)

UOL Credit Sdn Bhd v Dato' Vijay Kumar Natarajan [2010] 1 CLJ 557, FC (refd)

Legislation referred to

Courts of Judicature Act 1964 s 87
Federal Constitution art 152
National Language Act 1963 s 8
Penal Code ss 34, 302
Rules of the Federal Court 1995 r 137

Appeal from: Criminal Appeal No 05–22 of 2004 (B) (Federal Court, Putrajaya)

Karpal Singh (Sangeet Kaur Deo with him) (Karpal Singh & Co) for the applicant.
Ahmad bin Bache (Deputy Public Prosecutor, Attorney General's Chambers) for the respondent.

Richard Malanjum CJ (Sabah and Sarawak) (delivering judgment of the court):

[1] On 10 February 2011 we heard the application by the applicant under encl 19(a). After hearing the respective submissions of learned counsel for the parties, we dismissed the application. We indicated that we would give our reasons. We do so now.

[2] Briefly put, the applicant applied under r 137 ('the rule') of the Rules of the Federal Court 1995 ('the RFC') asserting that this court has the jurisdiction to review its own decisions pursuant to the rule or its inherent powers.

[3] Learned counsel for the applicant submitted that injustice had occasioned against the applicant and as such the rule should be invoked. The basis for such contention is that this court and the courts below failed to adhere to s 8 of the National Language Act 1963 ('the Act') when they delivered their respective judgments.

[4] As such, learned counsel urged this court to invoke its power under the rule or its inherent power in order to correct the alleged injustice on the ground that the judgments were a nullity and consequently the conviction and sentence passed against the applicant should be set aside.

[5] We do not propose to regurgitate herein the facts and evidence as found during the trial of the applicant. It would suffice to state that the applicant together with another were charged for the murder of one Shaik Abdul Rub Samdani Siddiqi on 1 March 1996 at a house No 306, Taman Desa Aman, Sungai Buloh, Selangor, an offence under s 302 of the Penal Code and in this case the said section was read with s 34 of the same Code.

[6] At the end of the prosecution case, the other accused was discharged and acquitted. He had since left the country, thereby making any appeal against the decision of the trial court illusory. But the defence of the applicant was called. At the end of the defence, the applicant was found guilty as charged, convicted and sentenced to death by the High Court on 15 November 2000.

[7] On appeal he was acquitted and discharged by the Court of Appeal on 12 August 2004. However the prosecution's appeal to this court was allowed on 9 September 2009 and the conviction and sentence imposed upon him by the High Court restored.

[8] It is to be noted that in his application before us the applicant did not challenge the decisions of the courts from the merit or evidential aspect. As indicated above it was solely on the allegation of failure by the courts to comply with s 8 of the Act. A

[9] At the outset of the hearing, the learned deputy public prosecutor ('DPP') raised to submit his preliminary objection. We heard it and allowed learned counsel for the applicant to reply. B

[10] Basically the learned DPP contended that the law relating to the rule had been settled in that this court had no jurisdiction to hear the application and even if it had the application did not meet the prerequisites of the rule. He further added that s 8 of the Act had also been settled by this court in its earlier decision. In this case the learned DPP argued that such failure by the courts to comply with s 8 of the Act did not nullify the conviction and sentence passed against the applicant. C D

[11] Meanwhile learned counsel for the applicant strenuously urged us to make a clear determination on the current position of the rule in view of the recent decisions of this court as well as the Court of Appeal on their lack of power or jurisdiction to review their own decisions related to the same cases despite earlier judicial pronouncements. According to him these recent judgments had caused uncertainty and confusion in the law. E

[12] Learned counsel also added that as to s 8 of the Act this court in its earlier judgment did not consider or made it clear on the application of the proviso of the section. F

[13] The rule states: G

> Inherent powers of the Court
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> For the removal of doubts it is hereby declared that nothing in these Rules shall be deemed to limit or affect the inherent powers of the Court to hear any application or to make any order as may be necessary to prevent injustice or to prevent an abuse of the process of the Court. H

[14] In *Ong Thye Peng v Loo Choo Teng & Ors* [2009] 4 MLJ 472 this is what Zulkefli FCJ had to say about the rule at p 479: I

> It must be noted at the outset that r 137 of the RFC does not actually confer jurisdiction on the Federal Court to hear any application or to make any order to prevent injustice or abuse of the process of the court. Rule 137 cannot be construed as conferring upon the Federal Court unlimited power to review its earlier decision for whatever purpose. The court only has the limited 'inherent' power or 'inherent

jurisdiction' in order to maintain its character as a court of justice. His Lordship Zaki Tun Azmi PCA (as he then was) in the case of *Asean Security Paper Mills Sdn Bhd v Mitsui Sumitomo Insurance (Malaysia) Bhd* [2008] 5 AMR 377 has succinctly laid out the limited or exceptional circumstances where the court has exercised its discretion to invoke r 137 at pp 388–389 as follows:

(a) That there was a lack of quorum eg the court was not duly constituted as two of the three presiding judges had retired (*Chia Yan Tek & Anor v Ng Swee Kiat & Anor* [2001] 4 MLJ 1; [2001] 4 AMR 3921).

(b) The applicant had been denied the right to have his appeal heard on merits by the appellate court (*Megat Najmuddin bin Dato Seri (Dr) Megat Khas v Bank Bumiputra (M) Bhd* [2002] 1 MLJ 385; [2002] 1 AMR 1089).

(c) Where the decision had been obtained by fraud or suppression of material evidence (*MGG Pillai v Tan Sri Dato' Vincent Tan Chee Yioun* [2002] 2 MLJ 673; [2002] 3 AMR 2917).

(d) Where the court making the decision was not properly constituted, was illegal or was lacking jurisdiction, but the lack of jurisdiction is not confined to the standing of the quorum that rendered the impugned decision (*Allied Capital Sdn Bhd v Mohd Latiff bin Shah Mohd, & another application* [2005] 3 MLJ 1; [2004] 5 AMR 709).

(e) Clear infringement of the law (*Adorna Properties Sdn Bhd v Kobchai Sosothikul* [2006] 1 MLJ 417;[2005] 1 AMR 501).

(f) It does not apply where the findings of, this court is questioned, whether in law or on the facts (since these are matters of opinion which this court may disagree with its earlier panel) (*Chan Yock Cher @ Chan Yock Kher v Chan Teong Peng* [2005] 1 MLJ 101;[2005] 4 AMR 693; [2005] 4 CLJ 29).

(g) Where an applicant under r 137 has not been heard by this court and yet through no fault of his, an order was inadvertently made as if he had been heard (*Raja Prithwi Chand v Sukhraj Rai* AIR 1941 FC 1).

(h) Where bias had been established (*Taylor and another v Lawrence and another* [2002] 2 All ER 353).

(i) Where it is demonstrated that the integrity of its earlier decision had been critically undermined eg where the process had been corrupted and a wrong result might have been arrived at (*Re Uddin (a child) (serious injury: standard of proof)* [2005] 3 All ER 550).

(j) Where the Federal Court allows an appeal which should have been consequentially dismissed because it accepted the concurrent findings of the High Court and Court of Appeal (*Joceline Tan Poh Choo & Ors v V Muthusamy* [2007] 6 MLJ 485; [2007] 5 AMR 725).

[15] Similar view was expressed by Heliliah Mohd Yusof FCJ in *Dato' Seri Anwar bin Ibrahim v Public Prosecutor* [2010] 5 MLJ 145 at p 190:

The rule itself is been framed as a deeming provision. The words '... nothing shall be deemed to limit or affect' means also nothing in the rules shall be regarded as limiting or affecting the inherent powers of the court. The 'court' of course is a reference to the Federal Court. The SG seems troubled by the source of the power. Is the deeming provision a legal fiction or statutory hypothesis? The term 'inherent powers' refers to the judicial powers of the Federal Court itself. 'Inherent' means it is intrinsic or organic to the judicial powers of the Federal Court and hence being so the Federal Court draws upon it in the limited circumstances prescribed in r 137 namely to address injustice or abuse of processes. A certain reserve of powers intrinsically remains with the court for the simple reason that the Federal Court is created by the constitution as a judicial organ at the apex of the judiciary. Hence by virtue of being at the apex it is only the Federal Court (and no other non judicial branch) that has to be the organ to deal with 'injustice' or 'abuse of processes'. It is in that limited sense that the jurisdiction itself stems from the inherent powers, for the powers being intrinsic and organic to the judicial powers of the Federal Court, those powers may therefore be drawn upon as and when circumstances require. It therefore constitutes a separate exercise and more of a rectifying process. The exercise of that inherent power will only be triggered by an application made to it, upon which the court could said to become seized of it. In that sense it could be said to exercise an inherent jurisdiction.

[16] Simply put, the rule is nothing more than to declare the obvious that is the inherent power of this court being the apex court of this country 'to prevent injustice or to prevent an abuse of the process of the Court'. A court of final instance must be equipped with residual jurisdiction to rehear and reopen its own earlier decision in a fit and proper case (see *Taylor and another v Lawrence and another* [2002] 2 All ER 353, and *Re Uddin (a child) (serious injury: standard of proof)* [2005] 3 All ER 550). But the rule does not create or provide additional power or new jurisdiction to this court (see *Asean Security Paper Mills v Mitsui Sumitomo Insurance (Malaysia) Bhd* [2008] 6 CLJ 1). Such must be the legal position as there should be finality in any decision of this court (see *Allied Capital Sdn Bhd v Mohd Latiff bin Shah Mohd, & another application* [2005] 3 MLJ 1; *Adorna Properties Sdn Bhd v Kobchai Sosothikul* [2006] 1 MLJ 417; [2005] 1 CLJ 565; *Public Prosecutor v Denish Madhavan* [2010] 5 CLJ 635).

[17] Accordingly, where the Court of Appeal is the apex court of any particular case in view of s 87 of the Courts of Judicature Act 1964 ('CJA') then it is also clothed with such inherent power (see *Ramanathan a/l Chelliah v Public Prosecutor* [2009] 6 MLJ 215). And if the High Court is similarly positioned it too has the inherent power (see *Public Prosecutor v Abdullah bin Idris* [2009] 5 MLJ 192).

[18] With respect we are not inclined to agree with some of the earlier views expressed in some judgments of this court and those of the Court of Appeal on the futility of the rule. In our considered view it has its function in view of its declaratory effect.

[19] Having said the above we hasten to add that in exercising such power this court must be extremely cautious and to do so only in rare and exceptional cases (see *Raja Petra Raja Kamarudin v Menteri Dalam Negeri* [2010] 4 CLJ 25; *Lim Lek Yan @ Lim Teck Yam v Yayasan Melaka and another application* [2010] 1 MLJ 173; [2009] 6 AMR 393 and *Chu Tak Fai v Public Prosecutor* [2007] 1 MLJ 201). Each application must be scrutinised carefully and thoroughly to determine if indeed there is any issue to be considered under the rule or for the exercise of the inherent power of the court (see *Sabah Forest Industries Sdn Bhd v UNP Plywood Sdn Bhd* [2010] 4 MLJ 483; [2010] 3 CLJ 779).

[20] In some of the earlier decisions of this court instances were mentioned when the rule or inherent power could be exercised. However, it should be noted that they were merely examples of instances as the list of instances is not exhaustive (see *Asean Security Paper Mills Sdn Bhd v Mitsui Sumitomo Insurance (Malaysia) Bhd*; *Badan Peguam Negara v Kerajaan Malaysia* [2009] 2 MLJ 161; [2009] 1 CLJ 833; *UOL Credit Sdn Bhd v Dato' Vijay Kumar Natarajan* [2010] 1 CLJ 557).

[21] The next issue concerns s 8 of the Act. Learned counsel for the applicant also referred to art 152 of the Federal Constitution ('FC') in relation thereto.

[22] Basically the issue is whether the three impugned judgments of this court and the courts below respectively which concerned the applicant have complied with s 8 of the Act.

[23] Section 8 reads:

> Language of Courts
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> All proceedings (other than the giving of evidence by a witness) in the Federal Court, the Court of Appeal, the High Court or any Subordinate Court shall be in the national language:
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> Provided that the Court may either of its own motion or on the application of any party to any proceedings and after considering the interests of justice in those proceedings, order that the proceedings (other than the giving of evidence by a witness) shall be partly in the national language and partly in the English language.

[24] Article 152 states:

152 National language

(1) The national language shall be the Malay language and shall be in such script as Parliament may by law provide:

Provided that —

(a) No person shall be prohibited or prevented from using (otherwise than for official purposes), or from teaching or learning, any other language; and

(b) Nothing in this Clause shall prejudice the right of the Federal Government or of any State Government to preserve and sustain the use and study of the language of any other community in the Federation.

...

(4) Notwithstanding the provisions of Clause (1), for a period of ten years after Merdeka Day, and thereafter until Parliament otherwise provides, all proceedings in the Federal Court, the Court of Appeal or a High Court shall be in the English language:

Provided that, if the Court and counsel on both sides agree, evidence taken in language spoken by the witness need not be translated into or recorded in English.

(5) Notwithstanding the provisions of Clause (1), until Parliament otherwise provides, all proceedings in subordinate courts, other than the taking of evidence, shall be in the English language.

[25] Learned counsel for the applicant submitted that the combined effect of art 152 of the FC and s 8 of the Act requires all proceedings to be in the national language and as such all the three judgments rendered by the respective courts are null, void and of no legal effect. It was also argued that this court in *Dato' Seri Anwar Ibrahim v Tun Dr Mahathir bin Mohamad* [2011] 1 MLJ 145; [2011] 1 CLJ 1 did not fully address the provision of s 8 in particular the phrase 'either of its own motion or on the application of any party to any proceedings'.

[26] In response, the learned deputy public prosecutor replied that the issue has already been settled by this court in the same case.

[27] We have read the judgment of this court in that case and with respect we have no reason to dissent. We concur with the rationales expressed in the judgment.

[28] Section 8 of the Act makes reference to 'all proceedings'. Granted that proceedings' do include judgments, however, judgment in this sense ought to

be taken as the pronouncement of an order. It does not include grounds for the judgment. Even if it does, the grounds of judgments in the English language would still be saved by the proviso to s 8 for the courts have a wide discretion as to the use of the English language in court.

[29] It must be stated here that the courts have always acknowledged the importance of the national language despite having the discretion to proceed in the English language. This was also stated in *Dato' Seri Anwar Ibrahim v Tun Dr Mahathir bin Mohamad* in the following words:

> Finally, we wish to emphasize that the courts have always recognised the importance of the national language (see *Zainun bte Hj Dahan lwn Rakyat Merchant Bankers Bhd & satu lagi* [1998] 1 MLJ 532; [1997] 4 CLJ Supp 279).
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> And as early as 1990, the Chief Judge of Malaya, Hashim Yeop A Sani in the Chief Judge of Malaya's Circular No 3 of 1990 dated 25 June 1990, directs that all judges and judicial commissioners of the High Court of Malaya and sessions court judges and magistrates to submit to him at least one grounds of judgment in the national language in each month in order to identify the problem arising out of the implementation of the use of the national language in courts. This circular further reinforces our view that, judges indeed have.a discretion to deliver their grounds of judgment either in the national language or the English language.

[30] Accordingly, on the authority of *Dato' Seri Anwar Ibrahim v Tun Dr Mahathir bin Mohamad*, which we accept as good law, we hold that grounds of judgment do not fall within s 8 of the Act, and the court has a wide discretion whether to conduct proceedings in the English language or in the national language, be it on the courts own motion or on application by the parties. Further, judges have the discretion to provide their grounds of judgment in either the national language or the English language. The choice of language adopted by the respective judge is not open for challenge as long as it is in the national language or the English language.

[31] In any event, there has been no injustice or prejudice whatsoever caused to the applicant by reason of the English written grounds of judgments. In the absence of any injustice or an abuse of the process of the court, this court must decline to invoke the rule or exercise its inherent jurisdiction (see *Sabah Forest Industries Sdn Bhd v UNP Plywood Sdn Bhd* [2010] 4 MLJ 483; [2010] 3 CLJ 779).

[32] For the foregoing reasons we dismissed this application. As we have stated, although this court has the inherent jurisdiction to rehear its own

decision by an earlier panel in certain limited circumstances, we find that the present case does not warrant this court to invoke the same.

Application dismissed.

Reported by Ashok Kumar